

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 111
96TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 5, 2011, with recommendation that the Senate Committee Substitute do pass.

0593S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 302.020, 302.321, 303.025, 311.325, 351.340, 475.060, 475.061, 475.115, 477.650, 484.350, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, and 589.040, RSMo, and to enact in lieu thereof forty-six new sections relating to the judiciary, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 302.020, 302.321, 303.025, 311.325, 351.340, 475.060, 475.061, 475.115, 477.650, 484.350, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, and 589.040, RSMo, are repealed and forty-six new sections enacted in lieu thereof, to be known as sections 221.025, 302.020, 302.321, 303.025, 311.325, 351.340, 455.007, 475.060, 475.061, 475.115, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, 477.650, 484.350, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, 589.040, and 632.312, to read as follows:

221.025. 1. As an alternative to confinement, an individual may be placed on electronic monitoring pursuant to subsection 1 of section 544.455 or subsection 6 of section 557.011, with such terms and conditions as a court shall deem just and appropriate under the circumstances.

2. A judge may, in his or her discretion, credit any such period of electronic monitoring against any period of confinement or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

8 incarceration ordered, however, electronic monitoring shall not be
9 considered to be in custody or incarceration for purposes of eligibility
10 for the MO HealthNet program, nor shall it be considered confinement
11 in a correctional center or private or county jail for purposes of
12 determining responsibility for the individual's health care.

13 3. Notwithstanding any provision of this section to the contrary,
14 a court shall not place an individual on electronic monitoring if that
15 individual is a prior, persistent, aggravated, or chronic offender
16 sentenced pursuant to section 577.023.

302.020. 1. Unless otherwise provided for by law, it shall be unlawful for
2 any person, except those expressly exempted by section 302.080, to:

3 (1) Operate any vehicle upon any highway in this state unless the person
4 has a valid license;

5 (2) Operate a motorcycle or motortricycle upon any highway of this state
6 unless such person has a valid license that shows the person has successfully
7 passed an examination for the operation of a motorcycle or motortricycle as
8 prescribed by the director. The director may indicate such upon a valid license
9 issued to such person, or shall issue a license restricting the applicant to the
10 operation of a motorcycle or motortricycle if the actual demonstration, required
11 by section 302.173, is conducted on such vehicle;

12 (3) Authorize or knowingly permit a motorcycle or motortricycle owned by
13 such person or under such person's control to be driven upon any highway by any
14 person whose license does not indicate that the person has passed the
15 examination for the operation of a motorcycle or motortricycle or has been issued
16 an instruction permit therefor;

17 (4) Operate a motor vehicle with an instruction permit or license issued
18 to another person.

19 2. Every person operating or riding as a passenger on any motorcycle or
20 motortricycle, as defined in section 301.010, upon any highway of this state shall
21 wear protective headgear at all times the vehicle is in motion. The protective
22 headgear shall meet reasonable standards and specifications established by the
23 director.

24 3. Notwithstanding the provisions of section 302.340 any person convicted
25 of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a [class
26 A] misdemeanor. **A first violation of subdivision (1) or (2) of subsection
27 1 of this section shall be punishable by a fine not to exceed three**

28 **hundred dollars. A second violation of subdivision (1) or (2) of**
29 **subsection 1 of this section shall be punishable by imprisonment in the**
30 **county jail for a term not to exceed one year and/or a fine not to exceed**
31 **one thousand dollars.** Any person convicted a third or subsequent time of
32 violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class
33 D felony. Notwithstanding the provisions of section 302.340, violation of
34 subdivisions (3) and (4) of subsection 1 of this section is a [class C] misdemeanor,
35 **the first violation punishable by a fine not to exceed three hundred**
36 **dollars, a second or subsequent violation of this section punishable as**
37 **a class C misdemeanor,** and the penalty for failure to wear protective headgear
38 as required by subsection 2 of this section is an infraction for which a fine not to
39 exceed twenty-five dollars may be imposed.
40 Notwithstanding all other provisions of law and court rules to the contrary, no
41 court costs shall be imposed upon any person due to such violation. No points
42 shall be assessed pursuant to section 302.302 for a failure to wear such protective
43 headgear. **Prior pleas of guilty and prior findings of guilty shall be**
44 **pleaded and proven in the same manner as required by section 558.021.**

302.321. 1. A person commits the crime of driving while revoked if such
2 person operates a motor vehicle on a highway when such person's license or
3 driving privilege has been canceled, suspended, or revoked under the laws of this
4 state or any other state and acts with criminal negligence with respect to
5 knowledge of the fact that such person's driving privilege has been canceled,
6 suspended, or revoked.

7 2. Any person convicted of driving while revoked is guilty of a [class A]
8 misdemeanor. **A first violation of this section shall be punishable by a**
9 **fine not to exceed three hundred dollars. A second or third violation**
10 **of this section shall be punishable by imprisonment in the county jail**
11 **for a term not to exceed one year and/or a fine not to exceed one**
12 **thousand dollars.** Any person with no prior alcohol-related enforcement
13 contacts as defined in section 302.525, convicted a fourth or subsequent time of
14 driving while revoked or a county or municipal ordinance of driving while
15 suspended or revoked where the defendant was represented by or waived the
16 right to an attorney in writing, and where the prior three driving-while-revoked
17 offenses occurred within ten years of the date of occurrence of the present offense;
18 and any person with a prior alcohol-related enforcement contact as defined in
19 section 302.525, convicted a third or subsequent time of driving while revoked or

20 a county or municipal ordinance of driving while suspended or revoked where the
21 defendant was represented by or waived the right to an attorney in writing, and
22 where the prior two driving-while-revoked offenses occurred within ten years of
23 the date of occurrence of the present offense and where the person received and
24 served a sentence of ten days or more on such previous offenses is guilty of a class
25 D felony. **Except upon conviction as a first offense**, no court shall suspend
26 the imposition of sentence as to such a person nor sentence such person to pay
27 a fine in lieu of a term of imprisonment, nor shall such person be eligible for
28 parole or probation until such person has served a minimum of forty-eight
29 consecutive hours of imprisonment, unless as a condition of such parole or
30 probation, such person performs at least ten days involving at least forty hours
31 of community service under the supervision of the court in those jurisdictions
32 which have a recognized program for community service. Driving while revoked
33 is a class D felony on the second or subsequent conviction pursuant to section
34 577.010 or a fourth or subsequent conviction for any other offense. **Prior pleas**
35 **of guilty and prior findings of guilty shall be pleaded and proven in the**
36 **same manner as required by section 558.021.**

303.025. 1. No owner of a motor vehicle registered in this state, or
2 required to be registered in this state, shall operate, register or maintain
3 registration of a motor vehicle, or permit another person to operate such vehicle,
4 unless the owner maintains the financial responsibility which conforms to the
5 requirements of the laws of this state. No nonresident shall operate or permit
6 another person to operate in this state a motor vehicle registered to such
7 nonresident unless the nonresident maintains the financial responsibility which
8 conforms to the requirements of the laws of the nonresident's state of
9 residence. Furthermore, no person shall operate a motor vehicle owned by
10 another with the knowledge that the owner has not maintained financial
11 responsibility unless such person has financial responsibility which covers the
12 person's operation of the other's vehicle; however, no owner or nonresident shall
13 be in violation of this subsection if he or she fails to maintain financial
14 responsibility on a motor vehicle which is inoperable or being stored and not in
15 operation. The director may prescribe rules and regulations for the
16 implementation of this section.

17 2. A motor vehicle owner shall maintain the owner's financial
18 responsibility in a manner provided for in section 303.160, or with a motor vehicle
19 liability policy which conforms to the requirements of the laws of this state. A

20 nonresident motor vehicle owner shall maintain the owner's financial
21 responsibility which conforms to the requirements of the laws of the nonresident's
22 state of residence.

23 3. Any person who violates this section is guilty of a [class C]
24 misdemeanor. **A first violation of this section shall be punishable by a**
25 **fine not to exceed three hundred dollars. A second or subsequent**
26 **violation of this section shall be punishable by imprisonment in the**
27 **county jail for a term not to exceed fifteen days and/or a fine not to**
28 **exceed three hundred dollars. Prior pleas of guilty and prior findings**
29 **of guilty shall be pleaded and proven in the same manner as required**
30 **by section 558.021.** However, no person shall be found guilty of violating this
31 section if the operator demonstrates to the court that he or she met the financial
32 responsibility requirements of this section at the time the peace officer,
33 commercial vehicle enforcement officer or commercial vehicle inspector wrote the
34 citation. In addition to any other authorized punishment, the court shall notify
35 the director of revenue of any person convicted pursuant to this section and shall
36 do one of the following:

37 (1) Enter an order suspending the driving privilege as of the date of the
38 court order. If the court orders the suspension of the driving privilege, the court
39 shall require the defendant to surrender to it any driver's license then held by
40 such person. The length of the suspension shall be as prescribed in subsection
41 2 of section 303.042. The court shall forward to the director of revenue the order
42 of suspension of driving privilege and any license surrendered within ten days;

43 (2) Forward the record of the conviction for an assessment of four points;

44 (3) In lieu of an assessment of points, render an order of supervision as
45 provided in section 302.303. An order of supervision shall not be used in lieu of
46 points more than one time in any thirty-six-month period. Every court having
47 jurisdiction pursuant to the provisions of this section shall forward a record of
48 conviction to the Missouri state highway patrol, or at the written direction of the
49 Missouri state highway patrol, to the department of revenue, in a manner
50 approved by the director of the department of public safety. The director shall
51 establish procedures for the record keeping and administration of this section; or

52 (4) For a nonresident, suspend the nonresident's driving privileges in this
53 state in accordance with section 303.030 and notify the official in charge of the
54 issuance of licenses and registration certificates in the state in which such
55 nonresident resides in accordance with section 303.080.

56 4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220,
57 303.290, 303.330 and 303.370 shall be construed as prohibiting the department
58 of insurance, financial institutions and professional registration from approving
59 or authorizing those exclusions and limitations which are contained in automobile
60 liability insurance policies and the uninsured motorist provisions of automobile
61 liability insurance policies.

62 5. If a court enters an order of suspension, the offender may appeal such
63 order directly pursuant to chapter 512 and the provisions of section 302.311 shall
64 not apply.

311.325. 1. Any person under the age of twenty-one years, who purchases
2 or attempts to purchase, or has in his or her possession, any intoxicating liquor
3 as defined in section 311.020 or who is visibly in an intoxicated condition as
4 defined in section 577.001, or has a detectable blood alcohol content of more than
5 two-hundredths of one percent or more by weight of alcohol in such person's blood
6 is guilty of a misdemeanor. **A first violation of this section shall be**
7 **punishable by a fine not to exceed three hundred dollars. A second or**
8 **subsequent violation of this section shall be punishable by**
9 **imprisonment in the county jail for a term not to exceed one year**
10 **and/or a fine not to exceed one thousand dollars. Prior pleas of guilty**
11 **and prior findings of guilty shall be pleaded and proven in the same**
12 **manner as required by section 558.021.** For purposes of prosecution under
13 this section or any other provision of this chapter involving an alleged illegal sale
14 or transfer of intoxicating liquor to a person under twenty-one years of age, a
15 manufacturer-sealed container describing that there is intoxicating liquor therein
16 need not be opened or the contents therein tested to verify that there is
17 intoxicating liquor in such container. The alleged violator may allege that there
18 was not intoxicating liquor in such container, but the burden of proof of such
19 allegation is on such person, as it shall be presumed that such a sealed container
20 describing that there is intoxicating liquor therein contains intoxicating liquor.

21 2. For purposes of determining violations of any provision of this chapter,
22 or of any rule or regulation of the supervisor of alcohol and tobacco control, a
23 manufacturer-sealed container describing that there is intoxicating liquor therein
24 need not be opened or the contents therein tested to verify that there is
25 intoxicating liquor in such container. The alleged violator may allege that there
26 was not intoxicating liquor in such container, but the burden of proof of such
27 allegation is on such person, as it shall be presumed that such a sealed container

28 describing that there is intoxicating liquor therein contains intoxicating liquor.

29 3. Any person under the age of twenty-one years who purchases or
30 attempts to purchase, or has in his or her possession, any intoxicating liquor, or
31 who is visibly in an intoxicated condition as defined in section 577.001, shall be
32 deemed to have given consent to a chemical test or tests of the person's breath,
33 blood, saliva, or urine for the purpose of determining the alcohol or drug content
34 of the person's blood. The implied consent to submit to the chemical tests listed
35 in this subsection shall be limited to not more than two such tests arising from
36 the same arrest, incident, or charge. Chemical analysis of the person's breath,
37 blood, saliva, or urine shall be performed according to methods approved by the
38 state department of health and senior services by licensed medical personnel or
39 by a person possessing a valid permit issued by the state department of health
40 and senior services for this purpose. The state department of health and senior
41 services shall approve satisfactory techniques, devices, equipment, or methods to
42 be considered valid and shall establish standards to ascertain the qualifications
43 and competence of individuals to conduct analyses and to issue permits which
44 shall be subject to termination or revocation by the state department of health
45 and senior services. The person tested may have a physician, or a qualified
46 technician, chemist, registered nurse, or other qualified person at the choosing
47 and expense of the person to be tested, administer a test in addition to any
48 administered at the direction of a law enforcement officer. The failure or inability
49 to obtain an additional test by a person shall not preclude the admission of
50 evidence relating to the test taken at the direction of a law enforcement
51 officer. Upon the request of the person who is tested, full information concerning
52 the test shall be made available to such person. Full information is limited to the
53 following:

- 54 (1) The type of test administered and the procedures followed;
- 55 (2) The time of the collection of the blood or breath sample or urine
56 analyzed;
- 57 (3) The numerical results of the test indicating the alcohol content of the
58 blood and breath and urine;
- 59 (4) The type and status of any permit which was held by the person who
60 performed the test;
- 61 (5) If the test was administered by means of a breath-testing instrument,
62 the date of performance of the most recent required maintenance of such
63 instrument. Full information does not include manuals, schematics, or software

64 of the instrument used to test the person or any other material that is not in the
65 actual possession of the state. Additionally, full information does not include
66 information in the possession of the manufacturer of the test instrument.

67 4. The provisions of this section shall not apply to a student who:

68 (1) Is eighteen years of age or older;

69 (2) Is enrolled in an accredited college or university and is a student in
70 a culinary course;

71 (3) Is required to taste, but not consume or imbibe, any beer, ale, porter,
72 wine, or other similar malt or fermented beverage as part of the required
73 curriculum; and

74 (4) Tastes a beverage under subdivision (3) of this subsection only for
75 instructional purposes during classes that are part of the curriculum of the
76 accredited college or university. The beverage must at all times remain in the
77 possession and control of an authorized instructor of the college or university,
78 who must be twenty-one years of age or older. Nothing in this subsection may be
79 construed to allow a student under the age of twenty-one to receive any beer, ale,
80 porter, wine, or other similar malt or fermented beverage unless the beverage is
81 delivered as part of the student's required curriculum and the beverage is used
82 only for instructional purposes during classes conducted as part of the
83 curriculum.

351.340. 1. Regular meetings of the board of directors may be held with
2 or without notice as the bylaws may prescribe. Special meetings of the board of
3 directors shall be held upon such notice as the bylaws may prescribe. Attendance
4 of a director at any meeting shall constitute a waiver of notice of the meeting
5 except where a director attends a meeting for the express purpose of objecting to
6 the transaction of any business because the meeting is not lawfully called or
7 convened. Neither the business to be transacted at, nor the purpose of, any
8 regular meeting of the board of directors need be specified in the notice or waiver
9 of notice of the meeting.

10 2. Any action which is required to be or may be taken at a meeting of the
11 directors, or of the executive committee or any other committee of the directors,
12 may be taken without a meeting if [consents in writing, setting forth the action
13 so taken, are signed by] all of the members of the board or of the committee as
14 the case may be, **consent thereto in writing or by electronic**
15 **transmission**. The consents shall have the same force and effect as a
16 unanimous vote at a meeting duly held, and may be stated as such in any

17 certificate or document filed under this chapter. The secretary shall file the
18 [consents] **writing or writings or electronic transmission or**
19 **transmissions** with the minutes of the meetings of the board of directors or of
20 the committee as the case may be. **Such filing shall be in paper form if the**
21 **minutes are maintained in paper form and shall be in electronic form**
22 **if the minutes are maintained in electronic form. "Electronic**
23 **transmission" for purposes of this section shall be as defined in**
24 **subdivision (2) of subsection 5 of section 351.245.**

455.007. Notwithstanding any other provision of law to the
2 **contrary, the public interest exception to the mootness doctrine shall**
3 **apply to an appeal of a full order of protection which:**

4 (1) **Has expired; and**

5 (2) **Subjects the person against whom such order is issued to**
6 **significant collateral consequences by the mere existence of such full**
7 **order of protection after its expiration.**

475.060. 1. Any person may file a petition for the appointment of himself
2 **or herself** or some other qualified person as guardian of a minor [or guardian
3 of an incapacitated person]. Such petition shall state:

4 (1) The name, age, domicile, actual place of residence and post office
5 address of the minor [or incapacitated person] if known and if any of these facts
6 is unknown, the efforts made to ascertain that fact;

7 (2) The estimated value of [his] **the minor's** real and personal property,
8 **and the location and value of any real property owned by the minor**
9 **outside of this state;**

10 (3) If the minor [or incapacitated person] has no domicile or place of
11 residence in this state, the county in which the property or major part thereof of
12 the minor [or incapacitated person] is located;

13 (4) The name and address of the parents of the minor [or incapacitated
14 person] and whether they are living or dead;

15 (5) The name and address of the spouse, and the names, ages and
16 addresses of all living children of the minor [or incapacitated person];

17 (6) The name and address of the person having custody of the person of
18 the minor [or incapacitated person];

19 (7) The name and address of any guardian of the person or conservator
20 of the estate of the minor [or incapacitated person] appointed in this or any other
21 state;

22 (8) If appointment is sought for a natural person, other than the public
23 administrator, the names and addresses of wards and disabled persons for whom
24 such person is already guardian or conservator;

25 (9) [In the case of an incapacitated person, the fact that the person for
26 whom guardianship is sought is unable by reason of some specified physical or
27 mental condition to receive and evaluate information or to communicate decisions
28 to such an extent that the person lacks capacity to meet essential requirements
29 for food, clothing, shelter, safety or other care such that serious physical injury,
30 illness or disease is likely to occur] **The name and address of the trustees
31 and the purpose of any trust of which the minor is a qualified
32 beneficiary;**

33 (10) The reasons why the appointment of a guardian is sought;

34 (11) A petition for the appointment of a guardian of a minor may be filed
35 for the sole and specific purpose of school registration or medical insurance
36 coverage. Such a petition shall clearly set out this limited request and shall not
37 be combined with a petition for conservatorship.

38 **2. Any person may file a petition for the appointment of himself
39 or herself or some other qualified person as guardian of an
40 incapacitated person. Such petition shall state:**

41 (1) **If known, the name, age, domicile, actual place of residence,
42 and post office address of the alleged incapacitated person, and for the
43 period of three years before the filing of the petition, the most recent
44 addresses, up to three, at which the alleged incapacitated person lived
45 prior to the most recent address, and if any of these facts is unknown,
46 the efforts made to ascertain that fact. In the case of a petition filed by
47 a public official in his or her official capacity, the information required
48 by this subdivision need only be supplied to the extent it is reasonably
49 available to the petitioner;**

50 (2) **The estimated value of the alleged incapacitated person's real
51 and personal property, and the location and value of any real property
52 owned by the alleged incapacitated person outside of this state;**

53 (3) **If the alleged incapacitated person has no domicile or place
54 of residence in this state, the county in which the property or major
55 part thereof of the alleged incapacitated person is located;**

56 (4) **The name and address of the parents of the alleged
57 incapacitated person and whether they are living or dead;**

58 **(5) The name and address of the spouse, the names, ages, and**
59 **addresses of all living children of the alleged incapacitated person, the**
60 **names and addresses of the alleged incapacitated person's closest**
61 **known relatives, and the names and relationship, if known, of any**
62 **adults living with the alleged incapacitated person; if no spouse, adult**
63 **child, or parent is listed, the names and addresses of the siblings and**
64 **children of deceased siblings of the alleged incapacitated person; the**
65 **name and address of any agent appointed by the alleged incapacitated**
66 **person in any durable power of attorney, and of the presently acting**
67 **trustees of any trust of which the alleged incapacitated person is the**
68 **grantor or is a qualified beneficiary or is or was the trustee or co-**
69 **trustee and the purpose of the power of attorney or trust;**

70 **(6) The name and address of the person having custody of the**
71 **person of the alleged incapacitated person;**

72 **(7) The name and address of any guardian of the person or**
73 **conservator of the estate of the alleged incapacitated person appointed**
74 **in this or any other state;**

75 **(8) If appointment is sought for a natural person, other than the**
76 **public administrator, the names and addresses of wards and disabled**
77 **persons for whom such person is already guardian or conservator;**

78 **(9) The fact that the person for whom guardianship is sought is**
79 **unable by reason of some specified physical or mental condition to**
80 **receive and evaluate information or to communicate decisions to such**
81 **an extent that the person lacks capacity to meet essential requirements**
82 **for food, clothing, shelter, safety, or other care such that serious**
83 **physical injury, illness, or disease is likely to occur;**

84 **(10) The reasons why the appointment of a guardian is sought.**

475.061. 1. Any person may file a petition in the probate division of the
2 circuit court of the county of proper venue for the appointment of himself or some
3 other qualified person as conservator of the estate of a minor or disabled
4 person. The petition shall contain the same allegations as are set forth in
5 subdivisions (1), (8), and (10) **of subsection 2** of section 475.060 with respect to
6 the appointment of a guardian for an incapacitated person and, in addition
7 thereto, an allegation that the respondent is unable by reason of some specific
8 physical or mental condition to receive and evaluate information or to
9 communicate decisions to such an extent that the respondent lacks ability to
10 manage his financial resources or that the respondent is under the age of

11 eighteen years.

12 2. A petition for appointment of a conservator or limited conservator of
13 the estate may be combined with a petition for appointment of a guardian or
14 limited guardian of the person. In such a combined petition allegations need not
15 be repeated.

 475.115. 1. When a guardian or conservator dies, is removed by order of
2 the court, or resigns and his **or her** resignation is accepted by the court, the
3 court shall have the same authority as it has in like cases over personal
4 representatives and their sureties and may appoint another guardian or
5 conservator in the same manner and subject to the same requirements as are
6 herein provided for an original appointment of a guardian or conservator.

7 **2. A public administrator may request transfer of any case to the**
8 **jurisdiction of another county by filing a petition for transfer and**
9 **-serving notice on the ward or protectee. If the receiving county meets**
10 **the venue requirements of section 475.035, the public administrator of**
11 **the receiving county consents to the transfer, and the ward or**
12 **protectee does not file an answer opposing the petition for transfer, the**
13 **court shall transfer the case. If the ward or protectee files an answer**
14 **opposing the petition for transfer, the court shall hold a hearing to**
15 **determine whether the case should be transferred. The court with**
16 **jurisdiction over the receiving county shall, without the necessity of**
17 **any hearing required by section 475.075, appoint the public**
18 **administrator of the receiving county as successor guardian and/or**
19 **successor conservator and issue letters therein. In the case of a**
20 **conservatorship, the final settlement of the public administrator's**
21 **conservatorship shall be filed within thirty days of the court's transfer**
22 **of the case, in the court with jurisdiction over the original**
23 **conservatorship, and forwarded to the receiving county upon audit and**
24 **approval.**

25

ARTICLE 1

26

GENERAL PROVISIONS

 475.501. Sections 475.501 to 475.555 may be cited as the "Uniform
2 Adult Guardianship and Protective Proceedings Jurisdiction Act".

 475.502. Notwithstanding the definitions in section 475.010, when
2 used in sections 475.501 to 475.555, the following terms mean:

- 3 (1) "Adult", an individual who has attained eighteen years of age;
4 (2) "Conservator", a person appointed by the court to administer

5 the property of an adult, including a person appointed under this
6 chapter;

7 (3) "Guardian", a person appointed by the court to make
8 decisions regarding the person of an adult, including a person
9 appointed under this chapter;

10 (4) "Guardianship order", an order appointing a guardian;

11 (5) "Guardianship proceeding", a proceeding in which an order
12 for the appointment of a guardian is sought or has been issued;

13 (6) "Incapacitated person", an adult for whom a guardian has
14 been appointed;

15 (7) "Party", the respondent, petitioner, guardian, conservator, or
16 any other person allowed by the court to participate in a guardianship
17 or protective proceeding;

18 (8) "Person", except in the term "incapacitated person" or
19 "protected person", an individual, corporation, business trust, estate,
20 trust, partnership, limited liability company, association, joint venture,
21 public corporation, government or governmental subdivision, agency,
22 or instrumentality, or any other legal or commercial entity;

23 (9) "Protected person", an adult for whom a protective order has
24 been issued;

25 (10) "Protective order", an order appointing a conservator or
26 other order related to management of an adult's property;

27 (11) "Protective proceeding", a judicial proceeding in which a
28 protective order is sought or has been issued;

29 (12) "Record", information that is inscribed on a tangible medium
30 or that is stored in an electronic or other medium and is retrievable in
31 perceivable form;

32 (13) "Respondent", an adult for whom a protective order or the
33 appointment of a guardian is sought;

34 (14) "State", a state of the United States, the District of Columbia,
35 Puerto Rico, the United States Virgin Islands, a federally recognized
36 Indian tribe, or any territory or insular possession subject to the
37 jurisdiction of the United States.

475.503. A court of this state may treat a foreign country as if it
2 were a state for the purpose of applying this article and articles 2, 3,
3 and 5.

475.504. 1. A court of this state may communicate with a court

2 in another state concerning a proceeding arising under sections 475.501
3 to 475.555. The court may allow the parties to participate in the
4 communication. Except as otherwise provided in subsection 2 of this
5 section, the court shall make a record of the communication. The
6 record may be limited to the fact that the communication occurred.

7 2. Courts may communicate concerning schedules, calendars,
8 court records, and other administrative matters without making a
9 record.

475.505. 1. In a guardianship or protective proceeding in this
2 state, a court of this state may request the appropriate court of another
3 state to:

4 (1) Hold an evidentiary hearing;

5 (2) Order a person in that state to produce evidence or give
6 testimony pursuant to procedures of that state;

7 (3) Order that an evaluation or assessment be made of the
8 respondent;

9 (4) Order any appropriate investigation of a person involved in
10 a proceeding;

11 (5) Forward to the court of this state a certified copy of the
12 transcript or other record of a hearing under subdivision (1) of
13 subsection 1 of this section or any other proceeding, any evidence
14 otherwise produced under subdivision (2) of subsection 1 of this
15 section, and any evaluation or assessment prepared in compliance with
16 an order under subdivisions (3) and (4) of subsection 1 of this section;

17 (6) Issue any order necessary to assure the appearance in the
18 proceeding of a person whose presence is necessary for the court to
19 make a determination, including the respondent or the incapacitated
20 or protected person;

21 (7) Issue an order authorizing the release of medical, financial,
22 criminal, or other relevant information in that state, including
23 protected health information as defined in 45 CFR 160.103, as amended.

24 2. If a court of another state in which a guardianship or
25 protective proceeding is pending requests assistance of the kind
26 provided in subsection 1 of this section, a court of this state has
27 jurisdiction for the limited purpose of granting the request or making
28 reasonable efforts to comply with the request.

475.506. 1. In a guardianship or protective proceeding, in

21 required to be notified of the guardianship or protective proceeding;

22 (2) The length of time the respondent at any time was physically
23 present in the state and the duration of any absence;

24 (3) The location of the respondent's property; and

25 (4) The extent to which the respondent has ties to the state such
26 as voting registration, state or local tax return filing, vehicle
27 registration, driver's license, social relationship, and receipt of
28 services.

475.522. This article provides the exclusive jurisdictional basis
2 for a court of this state to appoint a guardian or issue a protective
3 order for an adult.

475.523. A court of this state has jurisdiction to appoint a
2 guardian or issue a protective order for a respondent if:

3 (1) This state is the respondent's home state;

4 (2) On the date a petition is filed, this state is a significant-
5 connection state and:

6 (a) The respondent does not have a home state or a court of the
7 respondent's home state has declined to exercise jurisdiction because
8 this state is a more appropriate forum; or

9 (b) The respondent has a home state, a petition for an
10 appointment or order is not pending in a court of that state or another
11 significant-connection state, and, before the court makes the
12 appointment or issues the order:

13 a. A petition for an appointment or order is not filed in the
14 respondent's home state;

15 b. An objection to the court's jurisdiction is not filed by a person
16 required to be notified of the proceeding; and

17 c. The court in this state concludes that it is an appropriate
18 forum under the factors set forth in section 475.526;

19 (3) This state does not have jurisdiction under either
20 subdivisions (1) or (2) of this section, the respondent's home state and
21 all significant-connection states have declined to exercise jurisdiction
22 because this state is the more appropriate forum, and jurisdiction in
23 this state is consistent with the constitutions of this state and the
24 United States; or

25 (4) The requirements for special jurisdiction under section
26 475.524 are met.

475.524. 1. A court of this state lacking jurisdiction under
2 section 475.523 has special jurisdiction to do any of the following:

3 (1) Appoint a guardian in an emergency for a term not exceeding
4 ninety days for a respondent who is physically present in this state;

5 (2) Issue a protective order with respect to real or tangible
6 personal property located in this state;

7 (3) Appoint a guardian or conservator for an incapacitated or
8 protected person for whom a provisional order to transfer the
9 proceeding from another state has been issued under procedures
10 similar to section 475.531.

11 2. If a petition for the appointment of a guardian in an
12 emergency is brought in this state and this state was not the
13 respondent's home state on the date the petition was filed, the court
14 shall dismiss the proceeding at the request of the court of the home
15 state, if any, whether dismissal is requested before or after the
16 emergency appointment.

475.525. Except as otherwise provided in section 475.524, a court
2 that has appointed a guardian or issued a protective order consistent
3 with sections 475.501 to 475.555 has exclusive and continuing
4 jurisdiction over the proceeding until it is terminated by the court or
5 the appointment or order expires by its own terms.

475.526. 1. A court of this state having jurisdiction under section
2 475.523 to appoint a guardian or issue a protective order may decline
3 to exercise its jurisdiction if it determines at any time that a court of
4 another state is a more appropriate forum.

5 2. If a court of this state declines to exercise its jurisdiction
6 under subsection 1 of this section, it shall either dismiss or stay the
7 proceeding. The court may impose any condition the court considers
8 just and proper, including the condition that a petition for the
9 appointment of a guardian or protective order be promptly filed in
10 another state.

11 3. In determining whether it is an appropriate forum, the court
12 shall consider all relevant factors, including:

13 (1) Any expressed preference of the respondent;

14 (2) Whether abuse, neglect, or exploitation of the respondent has
15 occurred or is likely to occur and which state could best protect the
16 respondent from the abuse, neglect, or exploitation;

- 17 **(3) The length of time the respondent was physically present in**
18 **or was a legal resident of this or another state;**
- 19 **(4) The distance of the respondent from the court in each state;**
20 **(5) The financial circumstances of the respondent's estate;**
21 **(6) The nature and location of the evidence;**
22 **(7) The ability of the court in each state to decide the issue**
23 **expeditiously and the procedures necessary to present evidence;**
- 24 **(8) The familiarity of the court of each state with the facts and**
25 **issues in the proceeding; and**
- 26 **(9) If an appointment were made, the court's ability to monitor**
27 **the conduct of the guardian or conservator.**

475.527. 1. If at any time a court of this state determines that it
2 **acquired jurisdiction to appoint a guardian or issue a protective order**
3 **because of unjustifiable conduct, the court may:**

- 4 **(1) Decline to exercise jurisdiction;**
5 **(2) Exercise jurisdiction for the limited purpose of fashioning an**
6 **appropriate remedy to ensure the health, safety, and welfare of the**
7 **respondent or the protection of the respondent's property or prevent**
8 **a repetition of the unjustifiable conduct, including staying the**
9 **proceeding until a petition for the appointment of a guardian or**
10 **issuance of a protective order is filed in a court of another state having**
11 **jurisdiction; or**

12 **(3) Continue to exercise jurisdiction after considering:**

13 **(a) The extent to which the respondent and all persons required**
14 **to be notified of the proceedings have acquiesced in the exercise of the**
15 **court's jurisdiction;**

16 **(b) Whether it is a more appropriate forum than the court of any**
17 **other state under the factors set forth in subsection 3 of section 475.526;**
18 **and**

19 **(c) Whether the court of any other state would have jurisdiction**
20 **under factual circumstances in substantial conformity with the**
21 **jurisdictional standards of section 475.523.**

22 **2. If a court of this state determines that it acquired jurisdiction**
23 **to appoint a guardian or issue a protective order because a party**
24 **seeking to invoke its jurisdiction engaged in unjustifiable conduct, it**
25 **may assess against that party necessary and reasonable expenses,**
26 **including attorney's fees, investigative fees, court costs, communication**

27 expenses, witness fees and expenses, and travel expenses. The court
28 may not assess fees, costs, or expenses of any kind against this state or
29 a governmental subdivision, agency, or instrumentality of this state
30 unless authorized by law other than sections 475.501 to 475.555.

475.528. If a petition for the appointment of a guardian or
2 issuance of a protective order is brought in this state and this state was
3 not the respondent's home state on the date the petition was filed, in
4 addition to complying with the notice requirements of this state, notice
5 of the petition shall be given to those persons who would be entitled to
6 notice of the petition if a proceeding were brought in the respondent's
7 home state. The notice shall be given in the same manner as notice is
8 required to be given in this state.

475.529. Except for a petition for the appointment of a guardian
2 in an emergency or issuance of a protective order limited to property
3 located in this state as provided in subdivision (1) or (2) of subsection
4 1 of section 475.524, if a petition for the appointment of a guardian or
5 issuance of a protective order is filed in this and in another state and
6 neither petition has been dismissed or withdrawn, the following rules
7 apply:

8 (1) If the court in this state has jurisdiction under section
9 475.523, it may proceed with the case unless a court in another state
10 acquires jurisdiction under provisions similar to section 475.523 before
11 the appointment or issuance of the order.

12 (2) If the court in this state does not have jurisdiction under
13 section 475.523, whether at the time the petition is filed or at any time
14 before the appointment or issuance of the order, the court shall stay
15 the proceeding and communicate with the court in the other state. If
16 the court in the other state has jurisdiction, the court in this state shall
17 dismiss the petition unless the court in the other state determines that
18 the court in this state is a more appropriate forum.

19 ARTICLE 3

20 TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

475.531. 1. A guardian or conservator appointed in this state
2 may petition the court to transfer the guardianship or conservatorship
3 to another state.

4 2. Notice of a petition under subsection 1 of this section shall be
5 given to those persons that would be entitled to notice of a petition in

6 this state for the appointment of a guardian or conservator.

7 3. On the court's own motion or on request of the guardian or
8 conservator, the incapacitated or protected person, or other person
9 required to be notified of the petition, the court shall hold a hearing on
10 a petition filed pursuant to subsection 1 of this section.

11 4. The court shall issue an order provisionally granting a
12 petition to transfer a guardianship and shall direct the guardian to
13 petition for guardianship in the other state if the court is satisfied that
14 the guardianship will be accepted by the court in the other state and
15 the court finds that:

16 (1) The incapacitated person is physically present in or is
17 reasonably expected to move permanently to the other state;

18 (2) An objection to the transfer has not been made or, if an
19 objection has been made, the objector has not established that the
20 transfer would be contrary to the interests of the incapacitated person;
21 and

22 (3) Plans for care and services for the incapacitated person in
23 the other state are reasonable and sufficient.

24 5. The court shall issue a provisional order granting a petition
25 to transfer a conservatorship and shall direct the conservator to
26 petition for conservatorship in the other state if the court is satisfied
27 that the conservatorship will be accepted by the court of the other state
28 and the court finds that:

29 (1) The protected person is physically present in or is reasonably
30 expected to move permanently to the other state, or the protected
31 person has a significant connection to the other state considering the
32 factors set forth in subsection 2 of section 475.521;

33 (2) An objection to the transfer has not been made or, if an
34 objection has been made, the objector has not established that the
35 transfer would be contrary to the interests of the protected person; and

36 (3) Adequate arrangements will be made for management of the
37 protected person's property.

38 6. The court shall issue a final order confirming the transfer and
39 terminating the guardianship or conservatorship upon its receipt of:

40 (1) A provisional order accepting the proceeding from the court
41 to which the proceeding is to be transferred which is issued under
42 provisions similar to section 475.532; and

43 **(2) The documents required to terminate a guardianship or**
44 **conservatorship in this state.**

475.532. 1. To confirm transfer of a guardianship or
2 **conservatorship transferred to this state under provisions similar to**
3 **those in section 475.531, the guardian or conservator shall petition the**
4 **court in this state to accept the guardianship or conservatorship. The**
5 **petition shall include a certified copy of the other state's provisional**
6 **order of transfer.**

7 **2. Notice of a petition under subsection 1 of this section shall be**
8 **given to those persons that would be entitled to notice if the petition**
9 **were a petition for the appointment of a guardian or issuance of a**
10 **protective order in both the transferring state and this state. The**
11 **notice shall be given in the same manner as notice is required to be**
12 **given in this state.**

13 **3. On the court's own motion or on request of the guardian or**
14 **conservator, the incapacitated or protected person, or other person**
15 **required to be notified of the proceeding, the court shall hold a hearing**
16 **on a petition filed pursuant to subsection 1 of this section.**

17 **4. The court shall issue an order provisionally granting a**
18 **petition filed under subsection 1 of this section unless:**

19 **(1) An objection is made and the objector establishes that**
20 **transfer of the proceeding would be contrary to the interests of the**
21 **incapacitated or protected person; or**

22 **(2) The guardian or conservator is ineligible for appointment in**
23 **this state.**

24 **5. The court shall issue a final order accepting the proceeding**
25 **and appointing the guardian or conservator as guardian or conservator**
26 **in this state upon its receipt from the court from which the proceeding**
27 **is being transferred of a final order issued under provisions similar to**
28 **section 475.531 transferring the proceeding to this state.**

29 **6. Not later than ninety days after issuance of a final order**
30 **accepting transfer of a guardianship or conservatorship, the court shall**
31 **determine whether the guardianship or conservatorship needs to be**
32 **modified to conform to the law of this state.**

33 **7. In granting a petition under this section, the court shall**
34 **recognize a guardianship or conservatorship order from the other state,**
35 **including the determination of the incapacitated or protected person's**

36 incapacity and the appointment of the guardian or conservator.

37 8. The denial by a court of this state of a petition to accept
38 guardianship or conservatorship transferred from another state does
39 not affect the ability of the guardian or conservator to seek
40 appointment as guardian or conservator in this state under this
41 chapter if the court has jurisdiction to make an appointment other than
42 by reason of the provisional order of transfer.

43

ARTICLE 4

44

REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

475.541. If a guardian has been appointed in another state and
2 a petition for the appointment of a guardian is not pending in this
3 state, the guardian appointed in the other state, after giving notice to
4 the appointing court of an intent to register, may register the
5 guardianship order in this state by filing as a foreign judgment in a
6 court, in any appropriate county of this state, certified copies of the
7 order and letters of office.

475.542. If a conservator has been appointed in another state and
2 a petition for a protective order is not pending in this state, the
3 conservator appointed in the other state, after giving notice to the
4 appointing court of an intent to register, may register the protective
5 order in this state by filing as a foreign judgment in a court of this
6 state, in any county in which property belonging to the protected
7 person is located, certified copies of the order and letters of office and
8 of any bond.

475.543. 1. Upon registration of a guardianship or protective
2 order from another state, the guardian or conservator may exercise in
3 this state all powers authorized in the order of appointment except as
4 prohibited under the laws of this state, including maintaining actions
5 and proceedings in this state and, if the guardian or conservator is not
6 a resident of this state, subject to any conditions imposed upon
7 nonresident parties.

8 2. A court of this state may grant any relief available under
9 sections 475.501 to 475.555 and other law of this state to enforce a
10 registered order.

475.544. Except where inconsistent with sections 475.541, 475.542,
2 and 475.543, the laws of this state relating to the registration and
3 recognition of the acts of a foreign guardian, curator, or conservator

4 contained in sections 475.335 to 475.340 shall be applicable.

5

ARTICLE 5

6

MISCELLANEOUS PROVISIONS

475.551. In applying and construing this uniform act,
2 consideration shall be given to the need to promote uniformity of the
3 law with respect to its subject matter among states that enact it.

475.552. Sections 475.501 to 475.555 modify, limit, and supersede
2 the federal Electronic Signatures in Global and National Commerce Act,
3 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede
4 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
5 electronic delivery of any of the notices described in Section 103(b) of
6 that act, 15 U.S.C. Section 7003(b).

475.555. 1. Sections 475.501 to 475.555 apply to guardianship and
2 protective proceedings begun on or after August 28, 2011.

3 2. Articles 1, 3, 4, and sections 475.551 and 475.552 apply to
4 proceedings begun before August 28, 2011, regardless of whether a
5 guardianship or protective order has been issued.

477.650. 1. There is hereby created in the state treasury the "Basic Civil
2 Legal Services Fund", to be administered by, or under the direction of, the
3 Missouri supreme court. All moneys collected under section 488.031 shall be
4 credited to the fund. In addition to the court filing surcharges, funds from other
5 public or private sources also may be deposited into the fund and all earnings of
6 the fund shall be credited to the fund. The purpose of this section is to increase
7 the funding available for basic civil legal services to eligible low-income persons
8 as such persons are defined by the Federal Legal Services Corporation's Income
9 Eligibility Guidelines.

10 2. Funds in the basic civil legal services fund shall be allocated annually
11 and expended to provide legal representation to eligible low-income persons in the
12 state in civil matters. Moneys, funds, or payments paid to the credit of the basic
13 civil legal services fund shall, at least as often as annually, be distributed to the
14 legal services organizations in this state which qualify for Federal Legal Services
15 Corporation funding. The funds so distributed shall be used by legal services
16 organizations in this state solely to provide legal services to eligible low-income
17 persons as such persons are defined by the Federal Legal Services Corporation's
18 Income Eligibility Guidelines. Fund money shall be subject to all restrictions
19 imposed on such legal services organizations by law. Funds shall be allocated to

20 the programs according to the funding formula employed by the Federal Legal
21 Services Corporation for the distribution of funds to this state. Notwithstanding
22 the provisions of section 33.080, any balance remaining in the basic civil legal
23 services fund at the end of any year shall not be transferred to the state's general
24 revenue fund. Moneys in the basic civil legal services fund shall not be used to
25 pay any portion of a refund mandated by article X, section 15 of the Missouri
26 Constitution. State legal services programs shall represent individuals to secure
27 lawful state benefits, but shall not sue the state, its agencies, or its officials, with
28 any state funds.

29 3. Contracts for services with state legal services programs shall provide
30 eligible low-income Missouri citizens with equal access to the civil justice system,
31 with a high priority on families and children, domestic violence, the elderly, and
32 qualification for benefits under the Social Security Act. State legal services
33 programs shall abide by all restrictions, requirements, and regulations of the
34 Legal Services Corporation regarding their cases.

35 4. The Missouri supreme court, or a person or organization designated by
36 the court, is the administrator and shall administer the fund in such manner as
37 determined by the Missouri supreme court, including in accordance with any
38 rules and policies adopted by the Missouri supreme court for such
39 purpose. Moneys from the fund shall be used to pay for the collection of the fee
40 and the implementation and administration of the fund.

41 5. Each recipient of funds from the basic civil legal services fund shall
42 maintain appropriate records accounting for the receipt and expenditure of all
43 funds distributed and received pursuant to this section. These records must be
44 maintained for a period of five years from the close of the fiscal year in which
45 such funds are distributed or received or until audited, whichever is sooner. All
46 funds distributed or received pursuant to this section are subject to audit by the
47 Missouri supreme court or the state auditor.

48 6. The Missouri supreme court, or a person or organization designated by
49 the court, shall, by January thirty-first of each year, report to the general
50 assembly on the moneys collected and disbursed pursuant to this section and
51 section 488.031 by judicial circuit.

52 7. The provisions of this section shall expire on December 31, [2012] **2018**.

 484.350. Recognizing that Missouri children have a right to adequate and
2 effective representation in child welfare cases, the September 17, 1996, Missouri
3 supreme court standards for representation by guardians ad litem shall be

4 **updated and** adopted statewide and each circuit shall devise a plan for
5 implementation which takes into account the individual needs of their circuit as
6 well as the negative impact that excessive caseloads have upon effectiveness of
7 counsel. These plans shall be approved by the supreme court en banc and fully
8 implemented by July 1, 2011.

544.455. 1. Any person charged with a bailable offense, at his **or her**
2 appearance before an associate circuit judge or judge may be ordered released
3 pending trial, appeal, or other stage of the proceedings against him on his
4 personal recognizance, unless the associate circuit judge or judge determines, in
5 the exercise of his discretion, that such a release will not reasonably assure the
6 appearance of the person as required. When such a determination is made, the
7 associate circuit judge or judge may either in lieu of or in addition to the above
8 methods of release, impose any or any combination of the following conditions of
9 release which will reasonably assure the appearance of the person for trial:

10 (1) Place the person in the custody of a designated person or organization
11 agreeing to supervise him;

12 (2) Place restriction on the travel, association, or place of abode of the
13 person during the period of release;

14 (3) Require the execution of a bail bond with sufficient solvent sureties,
15 or the deposit of cash in lieu thereof;

16 (4) Require the person to report regularly to some officer of the court, or
17 peace officer, in such manner as the associate circuit judge or judge directs;

18 (5) Require the execution of a bond in a given sum and the deposit in the
19 registry of the court of ten percent, or such lesser percent as the judge directs, of
20 the sum in cash or negotiable bonds of the United States or of the state of
21 Missouri or any political subdivision thereof;

22 (6) **Place the person on house arrest with electronic monitoring,**
23 **except that all costs associated with the electronic monitoring shall be**
24 **charged to the person on house arrest. If the judge finds the person**
25 **unable to afford the costs associated with electronic monitoring, then**
26 **the judge shall not order that the person be placed on house arrest with**
27 **electronic monitoring;**

28 (7) Impose any other condition deemed reasonably necessary to assure
29 appearance as required, including a condition requiring that the person return
30 to custody after specified hours.

31 2. In determining which conditions of release will reasonably assure
32 appearance, the associate circuit judge or judge shall, on the basis of available
33 information, take into account the nature and circumstances of the offense
34 charged, the weight of the evidence against the accused, the accused's family ties,
35 employment, financial resources, character and mental condition, the length of
36 his residence in the community, his record of convictions, and his record of
37 appearance at court proceedings or flight to avoid prosecution or failure to appear
38 at court proceedings.

39 3. An associate circuit judge or judge authorizing the release of a person
40 under this section shall issue an appropriate order containing a statement of the
41 conditions imposed, if any, shall inform such person of the penalties applicable
42 to violations of the conditions of his release and shall advise him that a warrant
43 for his arrest will be issued immediately upon any such violation.

44 4. A person for whom conditions of release are imposed and who after
45 twenty-four hours from the time of the release hearing continues to be detained
46 as a result of his inability to meet the conditions of release, shall, upon
47 application, be entitled to have the condition reviewed by the associate circuit
48 judge or judge who imposed them. The motion shall be determined promptly.

49 5. An associate circuit judge or judge ordering the release of a person on
50 any condition specified in this section may at any time amend his order to impose
51 additional or different conditions of release; except that, if the imposition of such
52 additional or different conditions results in the detention of the person as a result
53 of his inability to meet such conditions or in the release of the person on a
54 condition requiring him to return to custody after specified hours, the provisions
55 of subsection 4 shall apply.

56 6. Information stated in, or offered in connection with, any order entered
57 pursuant to this section need not conform to the rules pertaining to the
58 admissibility of evidence in a court of law.

59 7. Nothing contained in this section shall be construed to prevent the
60 disposition of any case or class of cases by forfeiture of collateral security where
61 such disposition is authorized by the court.

62 8. Persons charged with violations of municipal ordinances may be
63 released by a municipal judge or other judge who hears and determines municipal
64 ordinance violation cases of the municipality involved under the same conditions
65 and in the same manner as provided in this section for release by an associate
66 circuit judge.

67 **9. A circuit court may adopt a local rule authorizing the pretrial**
68 **release on electronic monitoring pursuant to subdivision (6) of**
69 **subsection 1 of this section in lieu of incarceration of individuals**
70 **charged with offenses specifically identified therein.**

544.470. 1. If the offense is not bailable, **if the individual is not**
2 **granted electronic monitoring**, or if the [person] **individual** does not meet
3 the conditions for release, as provided in section 544.455, the [prisoner]
4 **individual** shall be committed to the jail of the county in which the same is to
5 be tried, there to remain until [he] **such individual** be discharged by due course
6 of law.

7 2. There shall be a presumption that releasing the person under any
8 conditions as provided by section 544.455 shall not reasonably assure the
9 appearance of the person as required if the circuit judge or associate circuit judge
10 reasonably believes that the person is an alien unlawfully present in the United
11 States. If such presumption exists, the person shall be committed to the jail, as
12 provided in subsection 1 of this section, until such person provides verification of
13 his or her lawful presence in the United States to rebut such presumption. If the
14 person adequately proves his or her lawful presence, the circuit judge or associate
15 circuit judge shall review the issue of release, as provided under section 544.455,
16 without regard to previous issues concerning whether the person is lawfully
17 present in the United States. If the person cannot prove his or her lawful
18 presence, the person shall continue to be committed to the jail and remain until
19 discharged by due course of law.

557.011. 1. Every person found guilty of an offense shall be dealt with by
2 the court in accordance with the provisions of this chapter, except that for
3 offenses defined outside this code and not repealed, the term of imprisonment or
4 the fine that may be imposed is that provided in the statute defining the offense;
5 however, the conditional release term of any sentence of a term of years shall be
6 determined as provided in subsection 4 of section 558.011.

7 2. Whenever any person has been found guilty of a felony or a
8 misdemeanor the court shall make one or more of the following dispositions of the
9 offender in any appropriate combination. The court may:

10 (1) Sentence the person to a term of imprisonment as authorized by
11 chapter 558;

12 (2) Sentence the person to pay a fine as authorized by chapter 560;

13 (3) Suspend the imposition of sentence, with or without placing the person
14 on probation;

15 (4) Pronounce sentence and suspend its execution, placing the person on
16 probation;

17 (5) Impose a period of detention as a condition of probation, as authorized
18 by section 559.026.

19 3. Whenever any person has been found guilty of an infraction, the court
20 shall make one or more of the following dispositions of the offender in any
21 appropriate combination. The court may:

22 (1) Sentence the person to pay a fine as authorized by chapter 560;

23 (2) Suspend the imposition of sentence, with or without placing the person
24 on probation;

25 (3) Pronounce sentence and suspend its execution, placing the person on
26 probation.

27 4. Whenever any organization has been found guilty of an offense, the
28 court shall make one or more of the following dispositions of the organization in
29 any appropriate combination. The court may:

30 (1) Sentence the organization to pay a fine as authorized by chapter 560;

31 (2) Suspend the imposition of sentence, with or without placing the
32 organization on probation;

33 (3) Pronounce sentence and suspend its execution, placing the
34 organization on probation;

35 (4) Impose any special sentence or sanction authorized by law.

36 5. This chapter shall not be construed to deprive the court of any
37 authority conferred by law to decree a forfeiture of property, suspend or cancel
38 a license, remove a person from office, or impose any other civil penalty. An
39 appropriate order exercising such authority may be included as part of any
40 sentence.

41 **6. In the event a sentence of confinement is ordered executed, a**
42 **court may order that an individual serve all or any portion of such**
43 **sentence on electronic monitoring, except that all costs associated with**
44 **the electronic monitoring shall be charged to the person on house**
45 **arrest. If the judge finds the person unable to afford the costs**
46 **associated with electronic monitoring, then the judge shall not order**
47 **that the person be placed on house arrest with electronic monitoring.**

566.086. 1. A person commits the crime of sexual contact with a student
2 [while on public school property] if he or she has sexual contact with a student
3 of the public school [while on any public school property] and is:

4 (1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of
5 section 168.104;

6 (2) A student teacher;

7 (3) An employee of the school;

8 (4) A volunteer of the school or of an organization working with the school
9 on a project or program **who is not a student at the public school**; [or]

10 (5) **An elected or appointed official of the public school district**;
11 **or**

12 (6) A person employed by an entity that contracts with the public school
13 district to provide services.

14 2. [For the purposes of this section, "public school property" shall mean
15 property of any public school in this state serving kindergarten through grade
16 twelve or any school bus used by the public school district.

17 3.] Sexual contact with a student [while on public school property] is a
18 class D felony.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has
2 pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

3 (1) Violating any of the provisions of this chapter or the provisions of
4 subsection 2 of section 568.020, incest; section 568.045, endangering the welfare
5 of a child in the first degree; subsection 2 of section 568.080, use of a child in a
6 sexual performance; section 568.090, promoting a sexual performance by a child;
7 section 573.023, sexual exploitation of a minor; section 573.025, promoting child
8 pornography in the first degree; section 573.035, promoting child pornography in
9 the second degree; section 573.037, possession of child pornography, or section
10 573.040, furnishing pornographic material to minors; or

11 (2) Any offense in any other state or foreign country, or under federal,
12 tribal, or military jurisdiction which, if committed in this state, would be a
13 violation listed in this section; shall not reside within one thousand feet of:

14 (a) Any public school as defined in section 160.011[, or];

15 (b) Any private school giving instruction in a grade or grades not higher
16 than the twelfth grade[, or];

17 (c) **Any child-care facility [as defined in section 210.201, which] that is**
18 **licensed under chapter 210; or**

19 **(d) Any residence, business, nonprofit organization, or church**
20 **that holds itself out to be a child-care facility;**
21 **where the school or facility** is in existence at the time the individual begins
22 to reside at the location.

23 2. If such person has already established a residence and a public school,
24 a private school, or child-care facility is subsequently built or placed within one
25 thousand feet of such person's residence, then such person shall, within one week
26 of the opening of such public school, private school, or child-care facility, notify
27 the county sheriff where such public school, private school, or child-care facility
28 is located that he or she is now residing within one thousand feet of such public
29 school, private school, or child-care facility and shall provide verifiable proof to
30 the sheriff that he or she resided there prior to the opening of such public school,
31 private school, or child-care facility.

32 3. For purposes of this section, "resides" means sleeps in a residence,
33 which may include more than one location and may be mobile or transitory.

34 4. Violation of the provisions of subsection 1 of this section is a class D
35 felony except that the second or any subsequent violation is a class B
36 felony. Violation of the provisions of subsection 2 of this section is a class A
37 misdemeanor except that the second or subsequent violation is a class D felony.

568.040. 1. A person commits the crime of nonsupport if such person
2 knowingly fails to provide[, without good cause,] adequate support for his or her
3 spouse; a parent commits the crime of nonsupport if such parent knowingly fails
4 to provide[, without good cause,] adequate support which such parent is legally
5 obligated to provide for his or her child or stepchild who is not otherwise
6 emancipated by operation of law.

7 2. For purposes of this section:

8 (1) "Child" means any biological or adoptive child, or any child whose
9 paternity has been established under chapter 454, or chapter 210, or any child
10 whose relationship to the defendant has been determined, by a court of law in a
11 proceeding for dissolution or legal separation, to be that of child to parent;

12 (2) "Good cause" means any substantial reason why the defendant is
13 unable to provide adequate support. Good cause does not exist if the defendant
14 purposely maintains his inability to support;

15 (3) "Support" means food, clothing, lodging, and medical or surgical
16 attention;

17 (4) It shall not constitute a failure to provide medical and surgical
18 attention, if nonmedical remedial treatment recognized and permitted under the
19 laws of this state is provided.

20 3. Inability to provide support for good cause shall be an affirmative
21 defense under this section. A person who raises such affirmative defense has the
22 burden of proving the defense by a preponderance of the evidence.

23 4. The defendant shall have the burden of injecting the issues raised by
24 [subdivisions (2) and] **subdivision** (4) of subsection 2 [and subsection 3] of this
25 section.

26 5. Criminal nonsupport is a class A misdemeanor, unless the total
27 arrearage is in excess of an aggregate of twelve monthly payments due under any
28 order of support issued by any court of competent jurisdiction or any authorized
29 administrative agency, in which case it is a class D felony.

30 6. If at any time a defendant convicted of criminal nonsupport is placed
31 on probation or parole, there may be ordered as a condition of probation or parole
32 that the defendant commence payment of current support as well as satisfy the
33 arrearages. Arrearages may be satisfied first by making such lump sum payment
34 as the defendant is capable of paying, if any, as may be shown after examination
35 of defendant's financial resources or assets, both real, personal, and mixed, and
36 second by making periodic payments. Periodic payments toward satisfaction of
37 arrears when added to current payments due may be in such aggregate sums as
38 is not greater than fifty percent of the defendant's adjusted gross income after
39 deduction of payroll taxes, medical insurance that also covers a dependent spouse
40 or children, and any other court or administrative ordered support, only. If the
41 defendant fails to pay the current support and arrearages as ordered, the court
42 may revoke probation or parole and then impose an appropriate sentence within
43 the range for the class of offense that the defendant was convicted of as provided
44 by law, unless the defendant proves good cause for the failure to pay as required
45 under subsection 3 of this section.

46 7. During any period that a nonviolent defendant is incarcerated for
47 criminal nonsupport, if the defendant is ready, willing, and able to be gainfully
48 employed during said period of incarceration, the defendant, if he or she meets
49 the criteria established by the department of corrections, may be placed on work
50 release to allow the defendant to satisfy defendant's obligation to pay
51 support. Arrearages shall be satisfied as outlined in the collection agreement.

52 8. Beginning August 28, 2009, every nonviolent first- and second-time
53 offender then incarcerated for criminal nonsupport, who has not been previously
54 placed on probation or parole for conviction of criminal nonsupport, may be
55 considered for parole, under the conditions set forth in subsection 6 of this
56 section, or work release, under the conditions set forth in subsection 7 of this
57 section.

58 9. Beginning January 1, 1991, every prosecuting attorney in any county
59 which has entered into a cooperative agreement with the [division of] child
60 support enforcement **service of the family support division of the**
61 **department of social services** shall report to the division on a quarterly basis
62 the number of charges filed and the number of convictions obtained under this
63 section by the prosecuting attorney's office on all IV-D cases. The division shall
64 consolidate the reported information into a statewide report by county and make
65 the report available to the general public.

66 10. Persons accused of committing the offense of nonsupport of the child
67 shall be prosecuted:

68 (1) In any county in which the child resided during the period of time for
69 which the defendant is charged; or

70 (2) In any county in which the defendant resided during the period of time
71 for which the defendant is charged.

 570.080. 1. A person commits the crime of receiving stolen property if for
2 the purpose of depriving the owner of a lawful interest therein, he or she receives,
3 retains or disposes of property of another knowing that it has been stolen, or
4 believing that it has been stolen.

5 2. Evidence of the following is admissible in any criminal prosecution
6 pursuant to this section to prove the requisite knowledge or belief of the alleged
7 receiver:

8 (1) That he or she was found in possession or control of other property
9 stolen on separate occasions from two or more persons;

10 (2) That he or she received other stolen property in another transaction
11 within the year preceding the transaction charged;

12 (3) That he or she acquired the stolen property for a consideration which
13 he or she knew was far below its reasonable value;

14 (4) That he or she obtained control over stolen property knowing the
15 property to have been stolen or under such circumstances as would reasonably
16 induce a person to believe the property was stolen.

17 3. [Receiving stolen property is a class A misdemeanor unless the
18 property involved has a value of five hundred dollars or more, or the person
19 receiving the property is a dealer in goods of the type in question, or the property
20 involved is an explosive weapon as that term is defined in section 571.010, in
21 which cases receiving stolen property is a class C felony] **Except as otherwise**
22 **provided in subsections 4 and 5 of this section, receiving stolen**
23 **property is a class A misdemeanor.**

24 4. **Receiving stolen property is a class C felony if:**

25 (1) **The value of the property or services appropriated is five**
26 **hundred dollars or more but less than twenty-five thousand dollars;**

27 (2) **The property has been physically taken from the person of**
28 **the victim; or**

29 (3) **The property appropriated includes:**

30 (a) **Any motor vehicle, watercraft, or aircraft;**

31 (b) **Any will or unrecorded deed affecting real property;**

32 (c) **Any credit card or letter of credit;**

33 (d) **Any firearm;**

34 (e) **Any explosive weapon as that term is defined in section**
35 **571.010;**

36 (f) **A United States national flag designed, intended, and used for**
37 **display on buildings or stationary flagstaffs in the open;**

38 (g) **Any original copy of an act, bill, or resolution, introduced or**
39 **acted upon by the legislature of the state of Missouri;**

40 (h) **Any pleading, notice, judgment, or any other record or entry**
41 **of any court of this state, any other state, or of the United States;**

42 (i) **Any book of registration or list of voters required by chapter**
43 **115;**

44 (j) **Any animal considered livestock as that term is defined in**
45 **section 144.010;**

46 (k) **Any live fish raised for commercial sale with a value of**
47 **seventy-five dollars or more;**

48 (l) **Any captive wildlife held under permit issued by the**
49 **conservation commission;**

50 (m) **Any controlled substance as that term is defined in section**
51 **195.010;**

52 (n) **Anhydrous ammonia;**

53 (o) **Ammonium nitrate; or**

54 **(p) Any document of historical significance which has a fair**
55 **market value of five hundred dollars or more.**

56 **5. The receipt of any item of property or services pursuant to**
57 **subsection 4 of this section which exceeds five hundred dollars may be**
58 **considered a separate felony and may be charged in separate counts.**

59 **6. Any person who previously has been found guilty of, or pled**
60 **guilty to, receiving stolen property, when the property is of the kind**
61 **described under paragraph (j) or (l) of subdivision (3) of subsection 4**
62 **of this section and the value of the animal or animals received exceeds**
63 **three thousand dollars, is guilty of a class B felony. Such person shall**
64 **serve a minimum prison term of not less than eighty percent of his or**
65 **her sentence before being eligible for probation, parole, conditional**
66 **release, or other early release by the department of corrections.**

67 **7. Receiving stolen property is a class B felony if the value of the**
68 **property or services equals or exceeds twenty-five thousand dollars.**

 578.150. 1. A person commits the crime of [failing to return] **stealing**
2 leased or rented property if, with the intent to deprive the owner thereof, [he]
3 **such person:**

4 **(1) Purposefully fails to return leased or rented personal property to the**
5 **place and within the time specified in an agreement in writing providing for the**
6 **leasing or renting of such personal property[. In addition, any person who has**
7 **leased or rented personal property of another who];**

8 **(2) Conceals or aids or abets the concealment of the property from**
9 **the owner[, or who otherwise];**

10 **(3) Sells, encumbers, conveys, pawns, loans, abandons or gives away**
11 **the leased or rented property [is guilty of the crime of failing to return leased or**
12 **rented property] or any part thereof, without the written consent of the**
13 **lessor, or without informing the person to whom the property is**
14 **transferred to that the property is subject to a lease;**

15 **(4) Returns the property to the lessor at the end of the lease**
16 **term, plus any agreed upon extensions, but does not pay the lease**
17 **charges agreed upon in the written instrument, with the intent to**
18 **wrongfully deprive the lessor of the agreed upon charges.**

19 **2. The provisions of this section shall apply to all forms of leasing and**
20 **rental agreements, including, but not limited to, contracts which provide the**
21 **consumer options to buy the leased or rented personal property, lease-purchase**

22 agreements and rent-to-own contracts. For the purpose of determining if a
23 violation of this section has occurred, leasing contracts which provide options to
24 buy the merchandise are owned by the owner of the property until such time as
25 the owner endorses the sale and transfer of ownership of the leased property to
26 the lessee.

27 [2. It shall be prima facie evidence of the crime of failing to return leased
28 or rented property when a person who has leased or rented personal property of
29 another willfully fails to return or make arrangements acceptable with the lessor
30 to return the personal property to its owner at the owner's place of business
31 within ten days after proper notice following the expiration of the lease or rental
32 agreement] **3. Evidence that a lessee used a false, fictitious, or not**
33 **current name, address, or place of employment in obtaining the**
34 **property or that a lessee fails or refuses to return the property or pay**
35 **the lease charges to the lessor within seven days after written demand**
36 **for the return has been sent by certified mail, return receipt requested,**
37 **to the address the person set forth in the lease agreement, or in the**
38 **absence of the address, to the person's last known place of residence,**
39 **shall be evidence of intent to violate the provisions of this section,**
40 except that if [the] a motor vehicle has not been returned within seventy-two
41 hours after the expiration of the lease or rental agreement, such failure to return
42 the motor vehicle shall be prima facie evidence of the intent of the crime of
43 [failing to return] **stealing** leased or rented property. Where the leased or
44 rented property is a motor vehicle, if the motor vehicle has not been returned
45 within seventy-two hours after the expiration of the lease or rental agreement,
46 the lessor may notify the local law enforcement agency of the failure of the lessee
47 to return such motor vehicle, and the local law enforcement agency shall cause
48 such motor vehicle to be put into any appropriate state and local computer system
49 listing stolen motor vehicles. Any law enforcement officer which stops such a
50 motor vehicle may seize the motor vehicle and notify the lessor that he may
51 recover such motor vehicle after it is photographed and its vehicle identification
52 number is recorded for evidentiary purposes. Where the leased or rented
53 property is not a motor vehicle, if such property has not been returned within the
54 [ten-day] **seven-day** period prescribed in this subsection, the owner of the
55 property shall report the failure to return the property to the local law
56 enforcement agency, and such law enforcement agency may within five days
57 notify the person who leased or rented the property that such person is in

58 violation of this section, and that failure to immediately return the property may
59 subject such person to arrest for the violation.

60 [3.] 4. This section shall not apply if such personal property is a vehicle
61 and such return is made more difficult or expensive by a defect in such vehicle
62 which renders such vehicle inoperable, if the lessee shall notify the lessor of the
63 location of such vehicle and such defect before the expiration of the lease or rental
64 agreement, or within ten days after proper notice.

65 [4. Proper notice by the lessor shall consist of a written demand addressed
66 and mailed by certified or registered mail to the lessee at the address given at the
67 time of making the lease or rental agreement. The notice shall contain a
68 statement that the failure to return the property may subject the lessee to
69 criminal prosecution.]

70 5. Any person who has leased or rented personal property of another who
71 destroys such property so as to avoid returning it to the owner shall be guilty of
72 property damage pursuant to section 569.100 or 569.120, in addition to being in
73 violation of this section.

74 6. Venue shall lie in the county where the personal property was
75 originally rented or leased.

76 7. [Failure to return] **Stealing** leased or rented property is a class A
77 misdemeanor unless the property involved has a value of [five hundred] **one**
78 **thousand** dollars or more, in which case [failing to return] **stealing** leased or
79 rented property is a class C felony.

589.040. 1. The director of the department of corrections shall develop a
2 program of treatment, education and rehabilitation for all imprisoned offenders
3 who are serving sentences for sexual assault offenses. When developing such
4 programs, the ultimate goal shall be the prevention of future sexual assaults by
5 the participants in such programs, and the director shall utilize those concepts,
6 services, programs, projects, facilities and other resources designed to achieve this
7 goal.

8 2. All persons imprisoned by the department of corrections for sexual
9 assault offenses shall be required to successfully complete the programs
10 developed pursuant to subsection 1 of this section **prior to being eligible for**
11 **parole or conditional release.**

632.312. Notwithstanding the provisions of section 105.452 to the
2 **contrary, a sheriff may receive reimbursement for the actual costs of**
3 **transporting a person to and from a mental health facility pursuant to**

4 **chapter 632 from a public or private hospital, not-for-profit charitable**
5 **organization, the state, or a political subdivision.**

✓

Unofficial

Bill

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